

EXHIBIT D

23-G-2540

DEC 20, 2023 01:25 PM

Robin C. Bishop
Robin C. Bishop, Clerk of State Court
Cobb County, Georgia

IN THE STATE COURT OF COBB COUNTY
STATE OF GEORGIA

ROBERT SCOT JAMES and CORE 2000,
LLC,

Plaintiffs,

v.

HONORS HOLDINGS, LLC,

Defendant,

v.

WHITEHORSE CAPITAL
MANAGEMENT, LLC,

Third-Party Claimant,

JPMORGAN CHASE BANK,

Garnishee.

Civil Action File No. 2023-G-2540

**ORDER ON DEFENDANT'S CLAIM OF EXEMPTION AND ON THIRD-PARTY
CLAIMANT'S CLAIM**

On November 14, 2023, plaintiffs filed a garnishment in this Court against financial institution JPMorgan Chase Bank as garnishee. The garnishment is based upon a September, 2023 judgment plaintiffs obtained against defendant in the United States District Court for the District of Delaware in the amount of \$5,947,533.00 principal, \$102,666.48 interest, \$85,000.00 attorney's fees, and costs of court. Following service upon it, garnishee JPMorgan Chase Bank filed a timely answer, paying into the registry of the Court \$3,709,722.77. Garnishee later amended its answer to indicate that the funds paid into the Court's registry are from an account subject to a Blocked

Account Control Agreement between defendant, garnishee and WhiteHorse Capital Management, LLC. Defendant then filed a claim form, claiming an exemption from garnishment in that the subject funds are “subject to a claim held by a third party – its lender, WhiteHorse Capital Management, LLC.” In accordance with §O.C.G.A. 18-4-15(d), defendant’s claim was set for hearing. Prior to the December 19, 2023 hearing, third-party WhiteHorse Capital Management, LLC filed a third party claim pursuant to §18-4-17. All parties appeared through counsel at the December 19, 2023 trial on the claims.

Having considered all claims in the order as set forth in O.C.G.A. §18-4-19, the Court finds (and defendant concedes) that no legal exemption exists for defendant under applicable garnishment law. Defendant’s claim of exemption is therefore DENIED.

As between plaintiffs and third-party claimant WhiteHorse Capital Management, LLC, the Court finds that WhiteHorse’s claim to the garnished funds is superior to and takes priority over plaintiffs’ judgment. WhiteHorse’s security interest in the funds from the subject account was perfected no later than November 19, 2019 by the execution by WhiteHorse, defendant and garnishee of the Blocked Account Control Agreement. This date precedes plaintiffs’ judgment against defendant. See O.C.G.A. §§ 11-9-203, 11-9-104 (providing that a security interest attaches to a deposit account as collateral when (1) value has been given; (2) the debtor has rights in the deposit account or the power to transfer rights in the account to a secured party; and (3) the debtor has signed a security agreement that identifies the collateral or the secured party has control of the deposit account), and 11-9-304(b); N.Y. U.C.C. Law §§ 9-314 and 9-104(a)(2) (providing that a secured interest in a deposit account is perfected when the “debtor, secured party, and bank have agreed in an authenticated record that the bank will comply with instructions originated by the

secured party directing disposition of the funds in the deposit account without further consent by the debtor.”).

The Court therefore FINDS IN FAVOR OF WhiteHorse Capital Management, LLC on its third-party claim. Pursuant to O.C.G.A. § 18-4-19(c)(4), the Clerk shall immediately disburse the \$3,709,722.77 paid into the registry of the Court by the garnishee in this case to third-party claimant WhiteHorse Capital Management, LLC.

SO ORDERED, this 20th day of December, 2023.

A handwritten signature in blue ink, appearing to read "Carl W. Bowers", is written over a horizontal line.

CARL W. BOWERS, JUDGE
STATE COURT OF COBB COUNTY

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a true and accurate copy of the within and foregoing as follows:

ORDER

(Through PeachCourt and/or via regular U.S. Mail) to the following:

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This 20th day of December, 2023.

/s/ Beth Parker

BETH PARKER

Judicial Administrative Specialist

Judge Carl W. Bowers

Cobb Co. State Court – Cobb Judicial Circuit